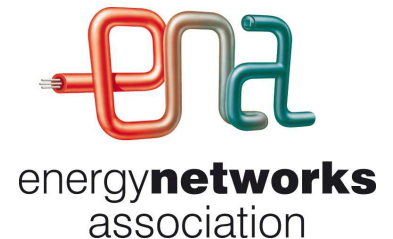


18 September 2009

Andy MacFaul  
Head of Better Regulation  
Office of Gas and Electricity Markets  
9, Millbank  
London  
SW1P 3GE



Dear Andy

**Ofgem's Five Year Strategy 2010-2015**

Thank you for the invitation to contribute to the development of Ofgem's next five year strategy for 2010-2015.

You request views specifically upon the future strategy and priorities of Ofgem in the short to medium term, i.e. over the period to 2015. We would like to highlight two areas to which we would urge Ofgem to give priority, i.e. the interpretation of its statutory duties and the current electricity distribution price control review process (DPCR5), in the context of its Better Regulation objectives.

**Ofgem's Remit**

In our response to your last Strategy and Plan (Feb 2009) ENA suggested that the challenges of developing a more sustainable energy system and maintaining secure supplies were probably the most significant issues facing Ofgem over the medium term. We therefore urged you to consider re-ordering the themes and giving greater prominence in the document to these issues. However, in the event, you chose not to do this.

There is no doubt that since February the issues of sustainable development and security of supply have assumed even greater importance. In particular, there is likely to be an Energy Bill over the next few months which we understand will be 'clarifying Ofgem's remit' and emphasising that its primary objective of protecting the interest of future as well as existing customers should include security of supply and reducing carbon emissions. Furthermore, although the Government has affirmed that 'effective competition' remains the central way that consumers' interests can be protected, it has observed that the promotion of competition may not be sufficient and direct action by the regulator may be required to protect consumers effectively. We also expect expanded Social and Environmental Guidance issued to Ofgem by DECC in the near future.

In the light of these developments and the decision by DECC to use its Energy Act 2008 powers to implement enduring reform of the transmission access arrangements, it is imperative that Ofgem clearly articulates in its Corporate Strategy and Plan the future role it expects to play in helping to deliver a low carbon future and ensure the security of UK's energy supplies.

## **DPCR5 – Review Process**

ENA has responded separately to Ofgem on the DPCR5 Initial Proposals which were published on 3 August. One of our key concerns relates to the review process itself particularly in the context of Ofgem's own Better Regulation principles. Because of the large number of issues that have not yet been considered by Ofgem e.g. the WACC and treatment of pension costs, and the significant errors that have been identified in key areas of the analyses, it has not been possible to gain a rounded view of the proposals. This is unsatisfactory given that we are currently only three months from the conclusion of the review.

There is also concern that all of the details of the proposed settlement will not be capable of resolution by the due time/date. If Ofgem is to meet its own regulatory objectives, the overall settlement package needs to be transparent, accurate, consistent and capable of being understood. Without this, it will be extremely difficult for the DNOs to properly assess whether the Final Proposals are acceptable to them when they are published in November.

As the proposals currently stand,

- They will not allow the sustained level of investment in the long term needed to deliver a sustainable and secure energy future.
- They will increase uncertainty for the DNOs in a challenging economic climate.
- They offer little opportunity for DNOs to outperform on cost and service targets for the benefit of customers and make a reasonable rate of return on their investments.
- The range of rates of return proposed by Ofgem's consultants are insufficient to attract enough investment to build the infrastructure needed to meet our energy security and climate change targets.

Of course, we hope to be able to resolve these issues through intensive discussions with Ofgem before the conclusion of the review in November. However, whatever the outcome, ENA's concern with the DPCR5 process itself remains.

As far as the specific issues covered in last year's Corporate Strategy and Plan, ENA has the following observations:

### **1. Creating and Sustaining Competition – Theft of Electricity and Gas**

In our response to the Ofgem Corporate Strategy 2009-2014 ENA expressed concerns regarding the lack of interest in seeking to resolve the conflicting incentive arrangements for detecting and preventing theft of electricity and gas. We are therefore pleased to see that Ofgem is now engaged with the industry on this matter through the UNC Review Group and hope that this will take forward the work produced in the ENA/ERA Theft Working Group Report. We also look forward to the promised consultation paper on the subject later in the year.

### **2/3. Regulating Networks Efficiently & Sustainable Development**

ENA members are fully supporting Ofgem's RPI-X@20 process through participation in the Ofgem working groups and contributions on the major issues that are being raised in Ofgem working papers. We hope that the review will produce an outcome that will enable the network companies to play a major role in facilitating the achievement of the important low-carbon, security of supply and quality of service goals.

Whilst ENA welcomes the incentives on network businesses to connect renewables to the networks, we would like to see the same offered for the connection of bio-methane. We

consider this a pivotal aspect in the future of the gas network which our members are currently working towards implementing and we will expect Ofgem's full cooperation in the matter.

#### **Regulatory Reporting**

We would like to reiterate our concern regarding an increase in the burden of regulatory reporting. This is particularly relevant due to the latest DEFRA requirement for climate change adaptation reporting and the possibility of additional reporting obligations from the European Union on the companies when monitoring security of supply (supply/demand) balance.

#### **4/5. Security of Supply and Europe**

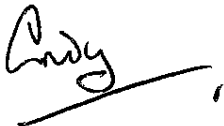
ENA welcomes the role that Ofgem is playing in Europe. Due to our increasing reliance on energy imports a crucial element of Britain's involvement with Europe relates to security of supply. As a result we would like to re-emphasise the importance of gas storage, the transportation of gas to and from Europe and EU emergency simulation exercises. ENA feels that there is still not enough support for security of supply in the UK gas markets within the EU regulatory framework.

#### **6. Fuel Poverty**

With regard to Ofgem's duty towards protecting future and existing customers, ENA would welcome work from Ofgem in facilitating the identification of vulnerable customers and sharing information for the customer's own benefit across market participants.

We hope that you find our comments useful and look forward to reading the first draft of the 2010-2015 Corporate Strategy and Plan.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy', with a long horizontal line extending to the right.

Andy Phelps  
Director of Regulation